| 1<br>2<br>3<br>4<br>5<br>6 | THOMAS A. ERICSSON, ESQ. Nevada Bar No. 4982 ORONOZ & ERICSSON LLC 1050 Indigo Drive, Suite 120 Las Vegas, Nevada 89145 Telephone: (702) 878-2889 Facsimile: (702) 522-1542 tom@oronozlawyers.com Attorney for David Lee Harris |   |  |
|----------------------------|---|---|--|
| 7                          | UNITED STATES DISTRICT COURT  |   |  |
| 8                          | DISTRICT OF NEVADA  |   |  |
| 9                          |   |   |  |
| 10                         | UNITED STATES OF AMERICA,   |   |  |
| 11                         | Plaintiff,  | CASE NO: 2:18-cr-092-RFB-PAL                              |  |
| 12                         | vs.   | UNOPPOSED MOTION TO PREPARE A PRE-PLEA PRESENTENCE REPORT |  |
| 13                         | DAVID LEE HARRIS,   | AND PROPOSED ORDER  |  |
| 14                         | Defendant.  |   |  |
| 15                         |   |   |  |
| 16                         |   |   |  |
| 17                         | COMES NOW, DAVID LEE HARRIS, by and through his attorney of record,   |   |  |
| 18                         | THOMAS A. ERICSSON, ESQ., and hereby moves this Honorable Court to order the United   |   |  |
| 19                         | States Department of Parole & Probation to prepare a pre-plea presentence report on DAVID   |   |  |
| 20                         | LEE HARRIS.   |   |  |
| 21                         |   |   |  |
| 22                         | This request is based upon the pleadings and papers on file herein, the attached  |   |  |
| 23                         | Memorandum of Points and Authorities, and any oral argument the Court may entertain.  |   |  |
| 24                         | Dated this 16 <sup>th</sup> day of August, 2018.  |   |  |
| 25                         |   | <u>/s/ Thomas A. Ericsson</u><br>THOMAS A. ERICSSON, ESQ. |  |
| 26                         |   | Nevada Bar No. 4982<br>1050 Indigo Drive, Suite 120       |  |
| 27                         |   | Las Vegas, NV 89145                                       |  |
| 28                         |   | Attorney for David Lee Harris                             |  |

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#### **MEMORANDUM OF POINTS AND AUTHORITIES**

### I. STATEMENT OF FACTS

On April 3, 2018, the Government filed an Indictment charging Defendant David Harris with one count of Bank Robbery. This case is set to proceed to trial on September 10, 2018.

#### II. LEGAL ARGUMENT

A presentence investigation may be initiated prior to entry of a guilty plea or nolo contendere or prior to the establishment of guilt. *See*, Fed. R. Crim. P. 32.

Counsel requires a pre-plea presentence report to determine whether Mr. Harris is potentially eligible for either Career Offender or Armed Career Criminal status.

Counsel understands that Mr. Harris has prior felony convictions, however, Counsel cannot accurately calculate whether Mr. Harris qualifies as a Career Offender or for the Armed Career Criminal ("ACCA") sentencing enhancements without the information that would be provided in the Pre-Plea PSR. Mr. Harris' eligibility for Career Offender and the ACCA will drastically impact his sentencing exposure, potential negotiations, and his decision as to how he should proceed in this matter. In addition, the timing of Mr. Harris' prior convictions could impact his sentencing guideline range and criminal history score. A pre-plea presentence report will promote judicial economy and could greatly expedite the manner in which this case is resolved. Furthermore, Mr. Harris consents to the pre-plea presentence investigation.

Counsel for Mr. Harris has spoken to the Government, and the Government does not oppose the instant motion.

Therefore, undersigned counsel respectfully requests this Court issue an Order directing the United States Department of Parole & Probation to conduct a pre-plea presentence investigation on Mr. Harris.

#### III. **CONCLUSION**

Based on the foregoing, Defendant asks this Court to grant his Motion to Conduct a Pre-Plea Presentence Report. Defendant further requests this Court order the United States Department of Parole & Probation to conduct a pre-plea presentence investigation and prepare a report for Mr. Harris.

Dated this 16<sup>th</sup> day of August, 2018.

/s/ Thomas A. Ericsson THOMAS A. ERICSSON, ESQ. Nevada Bar No. 4982 1050 Indigo Drive, Suite 120 Las Vegas, NV 89145 Attorney for David Harris

| 1  | UNITED STATES DISTRICT COURT  DISTRICT OF NEVADA                          |   |  |
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| 5  | UNITED STATES OF AMERICA,   | )<br>) CASE NO: 2:18-cr-092-RFB-PAL                     |  |
| 6  | Plaintiff,  | ) ORDER   |  |
| 7  | vs.   |   |  |
| 8  | DAVID LEE HARRIS,   |   |  |
| 9  | Defendant.  |   |  |
| 10 |   | )<br>)  |  |
| 11 |   |   |  |
| 12 | IT IS HEREBY ORDERED that that the United States Department of Probation  |   |  |
| 13 | will prepare a Pre-Plea Presentence Report on Defendant DAVID LEE HARRIS. |   |  |
| 14 | DATED this 20th day of August   | 2018  |  |
| 15 | Diff Do und out of  | , 2010.   |  |
| 16 |   |   |  |
| 17 |   | RICHARD F. BOULWARE, II<br>UNITED STATES DISTRICT JUDGE |  |
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## **CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of August, 2018, a true and correct copy of the foregoing Motion to Continue Calendar Call and Trial was served by electronic service via the U.S. District Court CM/ECF system on all parties or persons requiring notice.

/s/ Rachael Stewart
Employee of Oronoz & Ericsson LLC

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